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HOUSE OF REPRESENTATIVES

I certify that the attached is a true and
correct copy of AB 1854, which
was filed of record on MAR 6 1989
and referred to the committee on:
Corrections

Betty Manning

Chief Clerk of the House

FILED MAR 6 1989

By *A. Johnson*

H B. No. 1854

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Board of Criminal
Justice and Corrections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Government Code, is amended by adding
Chapter 512 to read as follows:

CHAPTER 512. TEXAS BOARD OF CRIMINAL JUSTICE AND CORRECTIONS

Sec. 512.001. BOARD OF CRIMINAL JUSTICE AND CORRECTIONS.

The Texas Board of Criminal Justice and Corrections is established.

Sec. 512.002. DEPARTMENT OF CRIMINAL JUSTICE AND
CORRECTIONS. The Texas Department of Criminal Justice and
Corrections is established under the supervision of the board.

Sec. 512.003. COMPOSITION OF BOARD. The board shall consist
of nine persons appointed by the governor.

Sec. 512.004. TERMS. (a) Members serve staggered six-year
terms with the terms of two members expiring in odd-numbered years.

(b) A member serves until his successor is appointed and
qualifies.

(c) A vacancy on the board shall be filled by the governor
for the unexpired term.

(d) The governor shall appoint one member of the board to
serve as chairman and one member to serve as vice-chairman.

Sec. 512.005. EXECUTIVE DIRECTOR. The board shall employ an
executive director to manage the operations of the Texas Department

1 of Criminal Justice and Corrections. The executive director serves
2 at the will of the board and is subject to the orders of the board
3 in the operation of the department. The executive director shall
4 appoint an assistant director to perform duties previously
5 performed by the director of the Texas Department of Corrections,
6 an assistant director to perform the duties previously performed by
7 the executive director of the Board of Pardons and Paroles, and an
8 assistant director to perform the duties previously performed by
9 the executive director of the Texas Adult Probation Commission, and
10 shall employ other persons necessary for the management and
11 operation of the department.

12 Sec. 512.006. DEPARTMENT DUTIES. The Texas Department of
13 Criminal Justice and Corrections is responsible for the confinement
14 and rehabilitation of adult offenders as well as the diversion of
15 persons from confinement and the reintegration of persons released
16 from confinement back into the community.

17 SECTION 2. (a) Except as provided by Subsection (c) of this
18 section, on January 1, 1990, the powers, duties, and obligations of
19 the following entities and their officers are transferred to the
20 Texas Board of Criminal Justice and Corrections:

- 21 (1) the Texas Board of Corrections;
22 (2) the Board of Pardons and Paroles; and
23 (3) the Texas Adult Probation Commission.

24 (b) On or before January 1, 1990, all property and records
25 in the custody of each entity listed in Subsection (a) of this
26 section and all funds appropriated by the legislature for the use
27 of the entity shall be transferred to the Texas Board of Criminal

1 Justice and Corrections. On the transfer, the entity is abolished,
2 except as provided by Subsection (c) of this section. A rule,
3 form, or policy adopted by an agency listed in Subsection (a) of
4 this section is a rule, form, or policy of the Texas Board of
5 Criminal Justice and Corrections until amended or repealed by the
6 board. The Texas Board of Criminal Justice and Corrections is, on
7 the abolition of an agency listed in Subsection (a), substituted as
8 a party in any suit pending in which the agency is a party.

9 (c) The Board of Pardons and Paroles shall continue in
10 existence, but only for the performance of duties imposed on the
11 board by Article IV, Section 11, of the Texas Constitution. The
12 executive director of the Texas Department of Criminal Justice and
13 Corrections shall provide the board with funds, records, and
14 employees necessary to the board to perform its duties.

15 SECTION 3. The governor shall appoint the initial members to
16 the Texas Board of Criminal Justice and Corrections on or before
17 October 1, 1989, and shall designate three of those appointees for
18 two-year terms, three for four-year terms, and three for six-year
19 terms.

20 SECTION 4. This Act takes effect September 1, 1989.

21 SECTION 5. The importance of this legislation and the
22 crowded condition of the calendars in both houses create an
23 emergency and an imperative public necessity that the
24 constitutional rule requiring bills to be read on three several
25 days in each house be suspended, and this rule is hereby suspended.

Willy

By A. Johnson

41 B. No. 1854

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HOUSE COMMITTEE REPORT

1st Printing

RECEIVED
JAN 1 1954

By Johnson of Collin, et al.

H.B. No. 1854

Substitute the following for H.B. No. 1854:

By Garcia

C.S.H.B. No. 1854

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Department of Criminal Justice and providing for its powers and duties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Article 1

SECTION 1.01. DEFINITIONS. In this Act:

(1) "Board" means the Texas Board of Criminal Justice.

(2) "Department" means the Texas Department of Criminal Justice.

SECTION 1.02. DEPARTMENT RESPONSIBILITIES. (a) The department is the state agency with primary responsibility for:

(1) the confinement, supervision, and rehabilitation of felons;

(2) the diversion of felons from confinement;

(3) the reintegration of felons into society after release from confinement; and

(4) the development of a system of state and local punishment, supervision, and rehabilitation programs and facilities.

(b) The department is governed by the board.

SECTION 1.03. BOARD: COMPOSITION. The board is composed of nine members appointed by the governor with the advice and consent of the senate. Two members must be district judges who have experience in hearing criminal cases. One member must have

1 experience in the administration of parole services. One member
2 must have experience in the field of education. One member must
3 have experience in agriculture. One member must have experience
4 in business or industry. The other members must be citizens of the
5 state with a knowledge of the criminal justice system.

6 SECTION 1.04. ELIGIBILITY FOR MEMBERSHIP; REMOVAL. (a) A
7 person is not eligible for appointment as a member of the board if
8 the person or the person's spouse:

9 (1) is employed by or participates in the management
10 of a business entity or other organization regulated by the
11 department or receiving funds from the department;

12 (2) owns, or controls directly or indirectly, more
13 than a 10 percent interest in a business entity or other
14 organization regulated by the department or receiving funds from
15 the department; or

16 (3) uses or receives a substantial amount of tangible
17 goods, services, or funds from the department, other than
18 compensation or reimbursement authorized by law for board
19 membership, attendance, or expenses.

20 (b) An employee, officer, or paid consultant of a trade
21 association in the field of criminal justice may not be a member or
22 employee of the board. A person who is the spouse of any officer,
23 employee, or paid consultant of a trade association in the field of
24 criminal justice may not be a member of the board and may not be an
25 employee, including an employee exempt from the state's
26 classification plan, who is compensated at or above the amount
27 prescribed by the General Appropriations Act for step 1, salary

1 group 17, of the position classification salary schedule. For the
2 purposes of this section, a trade association is a nonprofit,
3 cooperative, and voluntarily joined association of business or
4 professional competitors designed to assist its members and its
5 industry or profession in dealing with mutual business or
6 professional problems and in promoting their common interests.

7 (c) A person who is required to register as a lobbyist under
8 Chapter 305, Government Code, by virtue of the person's activities
9 for compensation in or on behalf of a profession related to the
10 operation of the board, may not serve as a member of the board or
11 act as the general counsel to the board.

12 (d) Appointments to the board shall be made without regard
13 to the race, color, handicap, sex, religion, age, or national
14 origin of the appointees.

15 (e) It is a ground for removal from the board if a member:

16 (1) does not have at the time of appointment the
17 qualifications required by Subsection (a) of this section for
18 appointment to the board;

19 (2) does not maintain during the member's service on
20 the board the qualifications required by Subsection (a) of this
21 section for appointment to the board;

22 (3) violates a prohibition established by Subsection
23 (b) or (c) of this section;

24 (4) is unable to discharge the member's duties for a
25 substantial part of the term for which the member was appointed
26 because of illness or disability; or

27 (5) is absent from more than half of the regularly

1 scheduled board meetings that the member is eligible to attend
2 during each calendar year, except when the absence is excused by
3 majority vote of the board.

4 (f) The validity of an action of the board is not affected
5 by the fact that it was taken when a ground for removal of a member
6 of the board existed.

7 (g) If the director has knowledge that a potential ground
8 for removal exists, the director shall notify the chairman of the
9 board of the ground. The chairman shall then notify the governor
10 that a potential ground for removal exists.

11 SECTION 1.05. TERMS; VACANCY. (a) Members serve staggered
12 six-year terms, with the terms of four members expiring February 1
13 of each odd-numbered year.

14 (b) In the event of a vacancy during a term, the governor
15 shall appoint a replacement to fill the unexpired portion of the
16 term.

17 SECTION 1.06. COMPENSATION OF MEMBERS. A member of the
18 board is not entitled to compensation but is entitled to
19 reimbursement for actual and necessary expenses as provided by the
20 General Appropriations Act.

21 SECTION 1.07. ORGANIZATION OF BOARD. (a) At the beginning
22 of a governor's term, the governor shall designate one member of
23 the board as chairman of the board. That member shall serve as
24 chairman at the pleasure of the governor.

25 (b) The board shall elect a vice-chairman of the board from
26 among its members, and may appoint committees to accomplish the
27 duties of the board.

1 SECTION 1.08. MEETINGS. (a) The board shall meet at least
2 once in each quarter of the calendar year.

3 (b) The board may meet at other times at the call of the
4 chairman or as provided by the rules of the board.

5 (c) As a specific exception to Chapter 271, Acts of the 60th
6 Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas
7 Civil Statutes), the board may hold an open or executive emergency
8 meeting by telephone conference call. The portion of a meeting
9 that is public and held by telephone conference call shall be
10 recorded and the recording shall be made available to be heard by
11 the public at one or more places designated by the board.

12 SECTION 1.09. GENERAL POWERS AND DUTIES OF BOARD. (a) The
13 board may adopt rules as necessary for its own procedures and for
14 operation of the department.

15 (b) The board shall employ an executive director who
16 possesses the qualifications described by Section 1.10 of this Act.
17 The board shall supervise the executive director's administration
18 of the department.

19 (c) The board shall approve the operating budget of the
20 department and the department's request for appropriations.

21 (d) Except as provided by Section 1.13 of this Act, the
22 board shall appoint the members of any advisory committees to the
23 department.

24 (e) The board shall provide to its members and employees, as
25 often as is necessary, information regarding their qualifications
26 for office or employment under this Act and their responsibilities
27 under applicable laws relating to standards of conduct for state

1 officers or employees.

2 (f) The board shall develop and implement policies that
3 clearly define the respective responsibilities of the board and the
4 staff of the department.

5 (g) The board shall file annually with the governor and the
6 presiding officer of each house of the legislature a complete and
7 detailed written report accounting for all funds received and
8 disbursed by the board during the preceding fiscal year. The
9 annual report must be in the form and reported in the time provided
10 by the General Appropriations Act.

11 SECTION 1.10. EXECUTIVE DIRECTOR. (a) The board shall
12 employ an executive director.

13 (b) The executive director is responsible for the
14 administration and enforcement of all laws relating to the
15 department, including rules implemented by the department, but may
16 delegate those responsibilities as permitted by board rule or
17 general law.

18 SECTION 1.11. HEADQUARTERS. The board and the department
19 shall maintain headquarters in Austin.

20 SECTION 1.12. DIVISIONS. (a) The following divisions are
21 established within the department:

- 22 (1) the community supervision and corrections
23 division;
- 24 (2) the prisons division;
- 25 (3) the education and training division;
- 26 (4) the paroles division;
- 27 (5) the criminal statistics division; and

1 (6) the administrative, planning, and construction
2 division.

3 (b) The executive director shall hire a director for each
4 division in the department.

5 SECTION 1.13. COMMUNITY SUPERVISION AND CORRECTIONS
6 DIVISION. (a) The community supervision and corrections division
7 shall:

8 (1) establish minimum standards for programs,
9 facilities, and services provided by community supervision and
10 corrections departments;

11 (2) certify and fund programs, facilities, and
12 services for community supervision and corrections departments;

13 (3) establish a prison beds allocation formula for
14 geographical areas served by community supervision and corrections
15 departments; and

16 (4) inspect and certify county jails.

17 (b) The chief justice of the Supreme Court of Texas and the
18 presiding judge of the Texas Court of Criminal Appeals shall each
19 appoint six members to serve as the advisory committee to the
20 community supervision and corrections division. The governor's
21 judicial appointees to the Texas Board of Criminal Justice shall
22 also serve as ex officio members of the advisory committee. The
23 advisory committee members appointed by the chief justice and the
24 presiding judge serve at the will of the appointing judge. The
25 advisory committee shall advise the director of the community
26 supervision and corrections division on matters of interest to the
27 judiciary, and the director shall carefully consider the advice.

1 SECTION 1.14. PRISONS DIVISION. The prisons division shall
2 operate and manage the state prison system.

3 SECTION 1.15. EDUCATION AND TRAINING DIVISION. The
4 education, training, and treatment division shall:

5 (1) operate the education programs provided for by
6 Chapter 29, Education Code;

7 (2) develop a uniform educational system for adult
8 offenders at all levels of the criminal justice system;

9 (3) develop substance abuse treatment plans and
10 programs for adult offenders at all levels of the criminal justice
11 system; and

12 (4) develop job-training programs for adult offenders
13 at all levels of the criminal justice system.

14 SECTION 1.16. PAROLES DIVISION. The director of the paroles
15 division shall make decisions related to the release of inmates
16 from the prisons division and the reintegration of those inmates
17 into society, and shall make decisions related to the revocations
18 of parole and release to mandatory supervision and the imposition
19 of sanctions on releasees who violate conditions of release. The
20 director has the responsibility for making decisions required by
21 this section, but may delegate authority to a sufficient number of
22 employees and in such a manner as to assist the director in the
23 operation of an efficient decision-making process. The division
24 shall supervise parolees and persons released on mandatory
25 supervision.

26 SECTION 1.17. CRIMINAL STATISTICS DIVISION. The criminal
27 statistics division shall:

1 (1) maintain the state's criminal justice information
2 data base;

3 (2) conduct an in-depth analysis of the criminal
4 justice system;

5 (3) determine the long-range needs of the criminal
6 justice system and recommend policy priorities for the system;

7 (4) identify critical problems in the criminal justice
8 system and recommend strategies to solve those problems;

9 (5) assess the cost-effectiveness of the use of state
10 and local funds in the criminal justice system;

11 (6) recommend the goals, priorities, and standards for
12 the allocation of criminal justice funds administered by the board;

13 (7) recommend means to improve the deterrent and
14 rehabilitative capabilities of the criminal justice system; and

15 (8) advise and assist the legislature in developing
16 plans, programs, and proposed legislation for improving the
17 effectiveness of the criminal justice system.

18 SECTION 1.18. ADMINISTRATIVE, PLANNING, AND CONSTRUCTION
19 DIVISION. The administrative, planning, and construction division
20 shall:

21 (1) establish, monitor, and supervise all state prison
22 construction projects;

23 (2) offer technical assistance and advice to any local
24 unit of government in the planning and construction of correctional
25 facilities;

26 (3) provide for legal counsel to the board;

27 (4) provide public information services for the board;

1 and

2 (5) provide clerical assistance to the board.

3 SECTION 1.19. PERSONNEL. (a) Each division director shall
4 hire the employees for the director's division.

5 (b) The executive director shall develop an intra-agency
6 career ladder program. The program shall require intra-agency
7 postings of all nonentry level positions concurrently with any
8 public postings.

9 (c) The executive director shall develop a system of annual
10 performance evaluations. All merit pay for department employees
11 must be based on the system established under this subsection.

12 (d) The executive director shall prepare and maintain a
13 written policy statement to assure implementation of a program of
14 equal employment opportunity under which all personnel transactions
15 are made without regard to race, color, handicap, sex, religion,
16 age, or national origin. The policy statement must include:

17 (1) personnel policies, including policies related to
18 recruitment, evaluation, selection, appointment, training, and
19 promotion of personnel;

20 (2) a comprehensive analysis of the department work
21 force that meets federal and state guidelines;

22 (3) procedures by which a determination can be made of
23 significant underuse in the department work force of all persons
24 for whom federal or state guidelines encourage a more equitable
25 balance; and

26 (4) reasonable methods to appropriately address those
27 areas of significant underuse.

1 (e) A policy statement prepared under Subsection (d) of this
2 section must cover an annual period, be updated at least annually,
3 and be filed with the governor's office.

4 (f) The governor's office shall deliver a biennial report to
5 the legislature based on the information received under Subsection
6 (e) of this section. The report may be made separately or as a
7 part of other biennial reports made to the legislature.

8 SECTION 1.20. APPLICATION OF SUNSET ACT. The Texas Board of
9 Criminal Justice and the Texas Department of Criminal Justice are
10 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
11 continued in existence as provided by that chapter, the board and
12 the department are abolished and this Act expires September 1,
13 1993.

14 SECTION 1.21. INITIAL APPOINTMENTS. (a) The governor shall
15 appoint the initial members of the board on or before January 1,
16 1990.

17 (b) Of the initial members, four shall serve terms expiring
18 February 1, 1991, four shall serve terms expiring February 1, 1993,
19 and four shall serve terms expiring February 1, 1995. The initial
20 members shall draw lots to determine their terms. On expiration of
21 those terms, the term of a member appointed by the governor is six
22 years, as provided by Section 5 of this Act.

23 SECTION 1.22. TRANSFER OF POWERS, DUTIES, OBLIGATIONS,
24 PROPERTY, AND RECORDS. (a) Except as provided by Subsection (e)
25 of this section, on January 1, 1990, the powers, duties, and
26 obligations of the following entities and their officers and
27 employees are transferred to the Texas Board of Criminal Justice:

- (1) the Texas Adult Probation Commission;
- (2) the Commission on Jail Standards;
- (3) the Texas Board of Corrections;
- (4) the Criminal Justice Policy Council; and
- (5) the Board of Pardons and Paroles.

(b) On or before January 1, 1990, all property and records in the custody of each entity listed in Subsection (a) of this section and all funds appropriated by the legislature for the use of the entity shall be transferred to the Texas Board of Criminal Justice. On the transfer, the entity is abolished, except as provided by Subsection (e) of this section.

(c) Unless a power, duty, or obligation is specifically reserved by statute to a particular division in the Texas Department of Criminal Justice, the Texas Board of Criminal Justice may assign the power, duty, or obligation to the division of its choice.

(d) A rule, form, or policy adopted by an agency listed in Subsection (a) of this section, on abolition of that agency, is a rule, form, or policy of the Texas Board of Criminal Justice. The Texas Board of Criminal Justice is, on abolition of an agency listed in Subsection (a) of this section, substituted as a party in any suit pending in which the agency is a party.

(e) The Board of Pardons and Paroles shall continue in existence, but only for the performance of duties imposed on the board by Article IV, Section 11, of the Texas Constitution. Of the initial members of the Texas Board of Criminal Justice, the governor shall appoint three members to serve as ex officio members

1 of the Board of Pardons and Paroles. One member must be a member
2 whose term on the Texas Board of Criminal Justice expires in 1991,
3 one member must be a member whose term on that board expires in
4 1993, and one member must be a member whose term on that board
5 expires in 1995. As those members vacate their offices on the
6 Texas Board of Criminal Justice, the members appointed by the
7 governor to fill those vacancies shall perform the ex officio
8 duties. The executive director of the Texas Department of Criminal
9 Justice shall provide the Board of Pardons and Paroles with funds,
10 records, and employees necessary to the board to perform its
11 duties.

12 (f) On and after January 1, 1990, a reference in the law to
13 the:

14 (1) Texas Adult Probation Commission or the Commission
15 on Jail Standards means the community supervision and corrections
16 division of the Texas Department of Criminal Justice;

17 (2) Texas Department of Corrections means the prisons
18 division of the Texas Department of Criminal Justice;

19 (3) Board of Pardons and Paroles means the paroles
20 division of the Texas Department of Criminal Justice, unless the
21 reference is in the context of the performance of duties imposed on
22 the Board of Pardons and Paroles by Article IV, Section 11, of the
23 Texas Constitution; and

24 (4) Criminal Justice Policy Council means the criminal
25 statistics division of the Texas Department of Criminal Justice.

26 SECTION 1.23. OVERSIGHT COMMITTEE. (a) The oversight
27 committee for the reorganization of the criminal justice system is

1 created. A member of the Texas Board of Criminal Justice may not
2 serve on the oversight committee.

3 (b) The committee is composed of:

4 (1) three state representatives appointed by the
5 speaker of the house of representatives;

6 (2) three senators appointed by the lieutenant
7 governor; and

8 (3) three persons appointed by the governor.

9 (c) The governor shall designate one of his appointees to
10 serve as chairman of the committee.

11 (d) A majority of the members of the committee constitutes a
12 quorum of the committee for transaction of business.

13 (e) The committee shall meet at least quarterly and at other
14 times at the call of the chair.

15 (f) The committee shall oversee and review the
16 implementation of criminal justice policy, including fiscal policy,
17 by the Texas Board of Criminal Justice.

18 (g) The committee may require information and reports from
19 the Texas Board of Criminal Justice.

20 (h) For purposes of carrying out its duties, the committee
21 may administer oaths and issue subpoenas, signed by the chairman,
22 to compel the attendance of witnesses and the production of books,
23 records, and documents. A subpoena of the committee shall be
24 served by a peace officer in the manner in which district court
25 subpoenas are served. On application of the committee, a district
26 court of Travis County shall compel compliance with a subpoena
27 issued by the committee in the same manner for district court

subpoenas.

(i) The committee shall make recommendations to the 72nd Legislature concerning needed changes in criminal justice and corrections policy.

(j) State agencies shall cooperate with and assist the committee at the committee's request.

(k) This section and the committee it creates expire February 1, 1991.

Article 2

SECTION 2.01. Chapter 29, Education Code, is amended to read as follows:

CHAPTER 29. EDUCATION PROGRAMS [~~SEHOOLS~~] WITHIN THE DEPARTMENT OF CORRECTIONS

Sec. 29.01. ESTABLISHMENT AND LOCATION. The Texas Board of Criminal Justice [~~Correptions~~] may establish and operate education programs [~~seheels~~] at the various units of the prisons division of the Texas Department of Criminal Justice [~~Correptions~~]. The board shall adopt rules for the operation of the programs.

Sec. 29.02. ELIGIBILITY OF STUDENTS. All persons incarcerated in the prisons division of the Texas Department of Criminal Justice [~~Correptions~~] who are not high school graduates are eligible to attend the education programs [~~sueh-seheels~~].

Sec. 29.03. BOARD MAY ACCEPT GRANTS. The Texas Board of Criminal Justice [~~Correptions~~] may accept grants from both public and private organizations and expend such funds for the purposes of operating the education programs [~~seheels~~].

Sec. 29.04. COSTS TO BE BORNE BY STATE. The total cost of

1 operating the education programs [schools] authorized by this
2 chapter shall be borne entirely by the state and shall be paid from
3 appropriations to the Texas Board of Criminal Justice made for that
4 purpose [the--Foundation-School-Program-Fund--Such-costs-shall-be
5 considered-annually-by-the-Foundation-School-Fund-Budget--Committee
6 and--included--in--estimating--the-funds-needed-for-purposes-of-the
7 Foundation-School-Program--No-part-of-the-operating--costs--herein
8 provided--for--shall--be--charged-to-any-of-the-school-districts-of
9 this-state].

10 [See--29.05--ALLOCATION--OF--COSTS---A--formula---for---the
11 allocation-of-professional-units-and-other-operating-expenses-shall
12 be--developed--by--the-Central-Education-Agency-and-approved-by-the
13 State-Board-of-Education-]

14 Article 3

15 SECTION 3.01. (a) Unless the Texas Board of Criminal
16 Justice holds a public meeting about a proposed correctional
17 facility before the facility is approved, the board may not
18 authorize the construction or renovation of the facility, enter
19 into a contract for the operation of the facility, or make payments
20 to a political subdivision of the state that operates the facility.
21 The board must be represented at the public meeting.

22 (b) The board shall hold the meeting in the closest
23 available public building to the site of the proposed facility.

24 (c) The board shall allow any person to comment on a
25 proposed facility.

26 (d) The board shall post notice of the date, hour, place,
27 and subject of a meeting required by this section. The notice must

1 be posted before the 30th day before the date of the meeting on a
2 bulletin board at a place convenient to the public in:

3 (1) the county courthouse of the county in which the
4 proposed facility is located; and

5 (2) the city hall of the municipality in which the
6 proposed facility is located, if applicable.

7 (e) The board shall publish notice of a hearing on an
8 application for a facility at least once each week for two
9 consecutive weeks before the hearing. The notice must contain the
10 information required for notice under Subsection (d) of this
11 section and must be published in the newspaper having the largest
12 general circulation that is published in the county in which the
13 proposed facility will be located, unless no newspaper is published
14 in the county, in which case the notice must be published in a
15 newspaper of general circulation in the county. The board shall
16 notify by certified or registered mail, return receipt requested,
17 each residence, each business, and each owner of real property
18 located within one-quarter mile of the proposed facility, as listed
19 on the date the board rules the application for a facility is
20 administratively complete in the real property records of the
21 county in which the proposed facility is to be located. The notice
22 must be deposited with the United States Postal Service for mailing
23 not more than 45 days nor less than 30 days before the date of the
24 hearing. The notice requirements regarding certified or registered
25 mail are presumed to have been complied with on the verification to
26 the board by an applicant that the mailings have been deposited as
27 required by this section, unless it is demonstrated by 35 percent

1 or more of the persons entitled to the notice that the mail was not
2 deposited with the United States Postal Service within the time
3 limits required by this subsection.

4 (f) If a private vendor proposes to construct or operate a
5 correctional facility, all costs associated with a public hearing
6 under this section, including the cost of giving notice in any
7 newspaper or by mail and the cost of rent and utilities for the
8 place where the hearing is held, shall be assessed against the
9 vendor who proposes to construct or operate the facility and must
10 be paid by the vendor before the hearing.

11 (g) At a location at the site of the proposed facility that
12 is visible from a regularly traveled thoroughfare, before the 30th
13 day before the date of the meeting the board shall post a sign not
14 less than four feet by four feet with a caption stating "Site of
15 Proposed Correctional Facility" in eight-inch letters. The sign
16 must state the nature and location of the proposed facility, the
17 name and address of the board, and the date, time, and place of the
18 meeting.

19 (h) Notice under this section must also be provided to the
20 state representative and senator representing the area in which the
21 proposed facility is to be located.

22 SECTION 3.02. (a) The requirement imposed by Section 3.01
23 of this Act, of public notice and a hearing before entering into a
24 contract for the operation of a correctional facility, does not
25 apply to a facility at a particular location if the facility was
26 under construction or in operation at that location immediately
27 before and on the effective date of this Act.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

4-27-89
(date)

bit

We, your COMMITTEE ON CORRECTIONS,

to whom was referred HB 1854 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- ☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ☒ yes () no An actuarial analysis was requested. () yes ☒ no

An author's fiscal statement was requested. () yes ☒ no

A criminal justice policy impact statement was prepared. () yes ☒ no

A water development policy impact statement was requested. () yes ☒ no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure () proposes new law. ☒ amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Hightower, Ch.	<input checked="" type="checkbox"/>			
Telford, V.C.	<input checked="" type="checkbox"/>			
Garcia, C.B.O.				<input checked="" type="checkbox"/>
Chisum		<input checked="" type="checkbox"/>		
Grusendorf	<input checked="" type="checkbox"/>			
Johnson, S.	<input checked="" type="checkbox"/>			
Repp	<input checked="" type="checkbox"/>			
Shine	<input checked="" type="checkbox"/>			
Valigura	<input checked="" type="checkbox"/>			

Total
7 aye
1 nay
0 present, not voting
1 absent

Allen Dykstra
CHAIRMAN
Deborah K. Wall
COMMITTEE COORDINATOR

BILL ANALYSIS

BY: JOHNSON
BY: GARCIA

HB1854
CSHB1854

BACKGROUND

Currently Texas' criminal justice system is served by several state agencies, each dealing with different, yet related, areas of criminal justice. Each agency is a separate and independent entity unto itself, and no uniform continuum of criminal justice policy has been established.

PURPOSE

As proposed, C.S.H.B. 1854 would consolidate Texas' criminal justice agencies into the Texas Department of Criminal Justice. The Department would be under the auspices of the Texas Board of Criminal Justice. In consolidating Texas' criminal justice agencies, a continuum of related criminal justice services will be established to better meet the public safety needs and standards of the local communities. The consolidation of the state's criminal justice system also provides a more cost-effective and efficient delivery of services.

RULEMAKING AUTHORITY

Grants the newly created agency the authority to adopt rules or amend rules that are transferred to them by the abolished agencies.

SECTION-BY-SECTION ANALYSIS

Article 1

SECTION 1.01: Definitions: (1) Defines "Board" as the Texas Board of Criminal Justice. (2) Defines "Department" as the Texas Department of Criminal Justice.

SECTION 1.02: Department Responsibilities. Sets out the responsibilities of the Board with regard to confinement, supervision, diversion, reintegration after release, and development of a state and local system of punishment, supervision and rehabilitation. States that the department is governed by the board.

SECTION 1.03: Board Composition: Establishes the composition of the board and sets out specific criteria for slotted positions on the board.

SECTION 1.04: Eligibility for membership; removal. Establishes eligibility requirements for board membership and conditions for removal from the board. Conflict of interest conditions constitute ineligibility. Non-discrimination pro-

visions are included. Removal based on ineligibility, inability to perform duties, as well as, failure to attend more than half of regularly scheduled board meetings.

SECTION 1.05: Terms; Vacancy. Members serve staggered six-year terms. In the event of a vacancy the Governor shall appoint a replacement.

SECTION 1.06: Compensation. Members are not entitled to compensation, but can be reimbursed for necessary expenses.

SECTION 1.07: Board Organization. The Governor shall designate the chairman of the board. The board elects the vice-chairman and may appoint committees to accomplish duties.

SECTION 1.08: Meetings. They shall meet at least once in each quarter of a calendar year. Other meetings may be held at the call of the chair, or as provided by board rules. In exception to Article 6252-17, VTCS, the board may hold an open or executive emergency meeting by telephone conference call. Portions of such call shall be recorded and made available to the public.

SECTION 1.09: Board Powers & Duties. The board may adopt rules necessary for its procedure and operation of the department. The board shall employ a qualified executive director. The board shall approve the operating budget of the department and the department's appropriations request. The board shall appoint members to the advisory committees to the department. The board shall provide members and employees information regarding qualifications of employment and standards of conduct. The board shall develop and institute policies defining the responsibilities of the board and department staff. The board shall submit to the Governor, Speaker and Lt. Governor annual reports accounting for funds received and disbursed.

SECTION 1.10: Executive Director. The board shall employ an executive director who is responsible for the administration and enforcement of all laws relating to the department.

SECTION 1.11: The Board headquarters are to be in Austin.

SECTION 1.12: Divisions: The department is comprised of the following division. The community corrections and supervision division; the prison division; the education, training and treatment division; the paroles division; the criminal statistics division; and the administrative division. The executive director shall hire a director for each division.

SECTION 1.13: Community Supervision and Corrections Division. The division shall establish minimum standards for programs, facilities and services provided by local department; certify and fund programs and services; establish a prison bed allocation formula for geographical areas served and inspect and certify county jails.

The Chief Justice and Supreme Court of Texas and the presiding judge of the Texas Court of Criminal Appeals will appoint six members to serve as the advisory committee to community supervision and corrections. The Governor appointees will serve as ex officio members to the advisory committee. The chief justice and

presiding judge appointees will serve at the will of the appointing judge. Specifies their advisory obligations.

SECTION 1.14: Prison Division. The division shall operate and manage the state prison system.

SECTION 1.15: Education, Training and Treatment Division. The division shall operate the education programs. At each level of the criminal justice system the division shall develop a uniform educational system; develop substance abuse treatment plans; and develop job-training programs.

SECTION 1.16: Paroles Division. The division shall make decision relating to the release and reintegration into society of inmates released from prison. The division shall make decisions relating to revocations and release to mandatory supervision, as well as sanctions imposed on releasees who violate conditions of parole. Decisions are subject to recommendations of the community supervision and corrections personnel.

SECTION 1.17: Criminal Statistics Division. The division shall conduct an analysis of the criminal justice system; determine and recommend long-range needs policy; identify problems and recommend solution; assess the cost-effectiveness of the use of state and local funds; recommend goals and standards for allocation of funds administered by the board; recommend improvements to the system; and advise and assist the legislature in developing programs and legislation.

SECTION 1.18: Administrative Planning and Construction Division. The division shall monitor state prison construction and provide technical assistance to local government. The division shall provide legal counsel and clerical assistance to the board; and provide public information services.

SECTION 1.19: Personnel. Each division director shall hire employees for said division. Division employees are subject to a intra-agency career ladder program; annual performance evaluations. Equal employment and personnel policies are to be implemented and biennial report delivered to the legislature to assure implementation.

SECTION 1.20: Application of the Sunset Act. The board and the department are subject to the Texas Sunset Act, unless continued as provided by the Act.

SECTION 1.21: Initial Appointments. The Governor shall appoint initial members by January 1, 1990. Terms of the initial members are established.

SECTION 1.22: Transfer of Powers, Duties, Obligations, etc. The powers, duties, obligations, property, records and appropriated funds of the Texas Adult Probation Commission, the Commission on Jail Standards, the Texas Board of Corrections, the Criminal Justice Policy Council and the Board of Pardons and Paroles are transferred to the Texas Board of Criminal Justice on January 1, 1990, and said agencies are abolished. The board and department have the discretion to assign a power, duty or obligation to any division, unless prohibited by statute. Rules, forms, and policies of aforementioned agencies are adopted by the Board on abolition of the agency. The Board of Pardons and

Paroles continues under the name the Board of Reprieves, Commutations, and Pardons; executing duties imposed under Article IV, Section 11 of the Constitution. The Governor appoints three of the initial members of the Texas Board of Criminal Justice to serve as ex-officio members of the board. Terms of ex-officio member are delineated. Each of the aforementioned agencies are designated as a particular division of the Texas Department of Criminal Justice on and after January 1, 1990.

SECTION 1.23: Oversight Committee: The oversight committee for the reorganization is created. The committee is composed of three state representatives appointed by the Speaker; three senators appointed by the Lieutenant Governor; three persons appointed by the Governor. The Governor shall designate one of his appointees chairman. The terms and procedures of operation and duties of the committee are set out in this section. The committee expires February 1, 1991.

Article 2

SECTION 2.01: Amends Chapter 29, Education Code by Changing the reference of Schools to "Education Programs."

Section 29.01: Establishment and Location: Changes the reference of the Texas Board of Corrections to "Texas Board of Criminal Justice." Grants authority for the Board to adopt rules for the operation of programs.

Section 29.02: Eligibility of Students. Adds language to include prison divisions of the Texas Department of Criminal Justice.

Section 29.03 Board May Accept Grants. Changes the name of the Board to Texas Board of Corrections and reference of schools to education programs.

Section 29.04: Costs to be Borne by State. Changes schools to education programs and adds language they shall be paid by appropriations to the Texas Board of Criminal Justice.

Section 29.05: Strikes all language.

Article 3

SECTION 3.01: Provides notification requirements. A public meeting must be held by the board for a proposed correctional facility and the board must have representation. Meeting to be held in location closest to proposed site, and shall allow any person to comment on the proposed facility. Notice shall be posted of the date, hour, place and subject. Posting time requirements are specified. Costs for postings shall be paid by a private vendor if involved. A sign shall be placed at the site 30 days before the meeting. Notice is also to be given to state representatives and senators of that area.

SECTION 3.02: Notification requirements do not apply to those facilities under construction or operation immediately before the effective date. It does apply to renewal or expansion of a facility regardless if it was operational as a correctional facility before.

Article 4

SECTION 4.01: Emergency clause.

SUMMARY OF COMMITTEE ACTION

Public notice was posted in accordance to the rules and a public hearing was held on April 19, 1989. HB1854 was left pending in committee.

On April 24, 1989, the Chair called up HB1854 for the Committee's consideration. The following persons testified on the bill:

Jack Crump, Texas Commission on Jail Standards; Judge Clarence Stevenson, Texas Adult Probation Commission; Bob Thomas, Texas Probation Association; Jim Allison, County Judges and Commissioners Association; Horace Groff, Texas Association of Counties; Bill Blythe, Wackenhut Corp; Representative Johnson.

On April 27, 1989, the Committee met in a public hearing and a motion was made to adopt a committee substitute. There being no objection, the Chair so ordered. The motion prevailed without objection. The full committee voted to report HB1854 as substituted to the house with the recommendation that it do pass by a record vote of 7 ayes, 1 nays, 0 pnv, 1 absent.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Like the original bill, the substitute creates the Texas Board of Criminal Justice. The substitute goes into detail as to the duties, programs and procedures to be followed. It defines the composition of the board. A section by section comparison explains the difference:

SECTION 1.01: Definitions of Board and Department.

SECTION 1.02: Provides for department responsibilities.

SECTION 1.03: Provides for the composition of the board.

SECTION 1.04: Provides for board membership, eligibility and removal.

SECTION 1.05: Sets out terms and vacancy.

SECTION 1.06: Provides for compensation.

SECTION 1.07: Board organization.

SECTION 1.08: Rules and procedures for meetings.

SECTION 1.09: Provides for the Boards powers and duties.

SECTION 1.10: Provides for an executive director.

SECTION 1.11: The Board headquarters are to be in Austin.

SECTION 1.12: Sets out Divisions.

6

SECTION 1.13: Community Supervision and Corrections Division is outlined.

SECTION 1.14: Provides for the prison division.

SECTION 1.15: Provides for education training and treatment divisions.

SECTION 1.16: Provides for the parole division.

SECTION 1.17: Provides for the Criminal Statistic Division.

SECTION 1.18: Provides for the Administrative Planning and Construction Division.

SECTION 1.19: Provides for personnel hired.

SECTION 1.20: Application of the Sunset Act. The board and the department are subject to the Texas Sunset Act, unless continued as provided by the Act.

SECTION 1.21: Provides for initial appointments by the Governor.

SECTION 1.22: Transfer of Powers, Duties, Obligations, etc.

SECTION 1.23: Establishes oversight committee.

Article 2

SECTION 2.01: Amends Chapter 29, Education Code by Changing the reference of Schools to "Education Programs."

Section 29.01: Sites establishment and location.

Section 29.02: Provides for eligibility of students.

Section 29.03 Provides that the board may accept grants.

Section 29.04: Costs to be borne by the state.

Section 29.05: Strikes all language.

Article 3

SECTION 3.01: Provides notification requirements.

SECTION 3.02: Facilities exempt from notification requirements.

SECTION 4.01: Emergency clause.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 30, 1989

To: Honorable Allen R. Hightower, Chair
Committee on Corrections
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Bill No. 1854

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1854 (relating to the establishment of the Texas Board of Criminal Justice and providing for its powers and duties) this office has determined the following:

The bill would establish the Texas Board of Criminal Justice and a Department of Criminal Justice. The department would be responsible for the confinement and rehabilitation of adult offenders and would assume the duties of the Texas Department of Corrections, Board of Pardons and Paroles, Texas Adult Probation Commission, Commission on Jail Standards, and Criminal Justice Policy Council except that the Board of Pardons and Paroles would continue in existence for the limited purpose of performing the duties imposed on the board by Article IV, Section 11, of the Texas Constitution. The bill would also authorize the establishment of education programs at the units of the Department of Criminal Justice. The cost for the operation of these programs would be paid from the appropriations made to the Texas Board of Criminal Justice rather than by the Foundation School Program Fund.

The fiscal implications, if any, to the State or units of local government cannot be determined.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Adult Probation Commission; Department of Corrections;
LBB Staff: JO, JWH, AL, MM, LV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 19, 1989

To: Honorable Allen R. Hightower, Chair
Committee on Corrections
House of Representatives
Austin, Texas

In Re: House Bill No. 1854
By: S. Johnson

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1854 (relating to the establishment of the Texas Board of Criminal Justice and Corrections) this office has determined the following:

The bill would establish the Texas Board of Criminal Justice and Corrections and a Department of Criminal Justice and Corrections. The department would be responsible for the confinement and rehabilitation of adult offenders and would assume the duties of the Texas Department of Corrections, Board of Pardons and Paroles and Texas Adult Probation Commission except that the Board of Pardons and Paroles would continue in existence for the limited purpose of performing the duties imposed on the board by Article IV, Section 11, of the Texas Constitution.

The fiscal implications, if any, to the State or units of local government cannot be determined.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Adult Probation Commission;
LBB Staff: JO, JWH, AL, MM, CKM

H. B. No. 1854

By A. Johnson

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Board of Criminal Justice
and Corrections.

MAR 6 1989

1. Filed with the Chief Clerk.

MAR 16 1989

2. Read first time and Referred to Committee on

Corrections

APR 27 1989

3. Reported favorably ~~(as amended)~~
(as substituted) and sent to Printer at 12:15 pm
MAY 1 1989

MAY 1 1989

4. Printed and distributed at 5:02 pm

MAY 2 1989

5. Sent to Committee on Calendars at 2:55 pm

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)
(Record Vote of _____ years, _____ nays, _____
present, not voting).

7. Motion to reconsider and table the vote by which H.B. _____ was ordered
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years,
_____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed
to suspend) by a four-fifths vote of _____ years, _____ nays, and _____
present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote
of _____ years, _____ nays, _____ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed
prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years, _____
nays, and _____ present, not voting).

12. Ordered Engrossed at _____

13. Engrossed.

14. Returned to Chief Clerk at _____

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on _____

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read
first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(_____ years, _____ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments,
(as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments)
(Substitute) by a (Non-Record
Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____

20-0-02 1-174 53

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